XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(19)

मामला क्रमांक MAC 632 सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

MISC. APPEAL (CLAIM) NO. 632/2007

APPELLANTS

1. Smt. Krishna Bai, aged 35 years, w/o late Kaliram Dewangaon,
2. Vijay Dewangaon, aged 18 years, s/o late Kaliram Dewangan,
3. Ku. Savita Dewangaon, aged 15 years, Minor, d/o late Kaliram Dewangan,
4. Ku. Keeta Dewangaon, aged 15 years, Minor, d/o late Kaliram Dewangaon,
5. Ku. Pushpa Dewangaon, aged 15 years, Minor d/o late Kaliram Dewangaon

(Appellants 3 to 5 being minors are represented through their mother i.e., appellant no.1)

All the above are r/o village Tila, P.S. Nayapara, Distt. Raipur (C.G) at Present r/o village Ghodari P.S. Mahasamund, Tahsil & Distt. Mahasamund (C.G)

Versus

RESPONDENTS

1. Mohan Lal Dhakad, aged 42 years, s/o Chaturbhuj Dhakad, r/o Burkhedi, P.S. Ramganj Mandi, Distt. Kota, Rajasthan, at present r/o village Ahirwara, P.S. Nandini Bhilai Distt. Durg. (C.G),
   (Driver of Truck No.C.G.07/C/4267)

2. Harbansh Sethi, s/o not known, r/o Goodwill & Concent Company, 15

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मामला क्रमांक M.A.C. 632 **सन् 2007**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

~~Mohan Nagar, Durg, Tahsil & Distt.~~ Durg (C.G).
(Owner of Truck No.CG.07/C/4267)

3. The united India Insurance Company Ltd., through the Divisional Office, Branch Office at Jail Road, Raipur, Distt. Raipur (C.G)
Insurance Company of Truck No.C.G.07/C/4267)

DIVISION BENCH -:
HON'BLE SHRI L.C. BHADOO, J, &
HON'BLE SHRI SUNIL KUMAR SINHA, J.

ORAL ORDER
(23.07.2007)

Shri J.A. Lohani counsel for the appellants.

Learned Counsel for the appellants submits that he does not want to effect the service on respondents no.1 & 2 as the claim has been passed against respondent no.3, therefore, this appeal be finally disposed of at the motion stage.

On the direction of this Court, Shri Pankaj Agrawal, Advocate, takes notice on behalf of Respndent no.3 United India Insurance Company.

Since a short question is involved in this appeal, it is taken up for final hearing.

Heard.

The appellants have preferred this appeal under section 173 of the Motor Vehicles Act being aggrieved by the award dated

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

18.1.2007 passed by the Accident Claims Tribunal Mahasamund, in Claim Case No.41/2006 whereby the learned Tribunal assessing the annual dependency of the appellants to the tune of s.44,000/- and by applying the multiplier of 10, granted Rs.4,40,000/- as compensation and in addition to this, Rs. 2000/- towards funeral expenses and Rs. 2000/- towards loss of consortium have also been granted. Thus a total amount of Rs.4,44,000/-has been awarded to the appellants.

Learned counsel for the appellants argued that at the time of death, the deceased namely Kaliram Dewangan, husband of appellant no.1 and father of rest of the appellants herein, was aged about 40 years, therefore, the learned Tribunal ought to have applied the multiplier of 16 as per the 2nd schedule, whereas in fact, the learned tribunal has adopted a wrong multiplier of 10. Hence, the compensation may be increased by applying the multiplier of 16.

On the other hand, Mr. Pankaj Agrawal opposes the appeal and argued that the learned Tribunal has applied correct multiplier looking to the facts and circumstances of the case and has awarded a just and reasonable compensation to the appellants.

Having heard learned counsel for the parties, we have perused the records.

Admittedly, as per para 4 of the claim petition, the age of the deceased Kaliram Dewangan was mentioned as 37 years and in the postmortem report, 40 years has been written and the tribunal has also held it to be 40 years, therefore, admittedly, the age of the

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	Kaliram Dewangan was 40 years and as per the second schedule, if the age of the deceased is 35-40 years, then the multiplier of 16 is to be applied. Accordingly, we are of the considered opinion that the decision of the Tribunal by applying the multiplier of 10 is not correct and not legally sustainable. The learned Tribunal looking to the age of 40 years, ought to have applied the multiplier of 16. Therefore, by applying the multiplier of 16 to the annual dependency of 44,000/-, the total award comes to Rs.7,04,000/- . Accordingly, the appeal is allowed. The award impugned is set aside. Respondent no.3 is directed to pay the compensation of Rs.7,04,000/-. The above amount shall carry interest @ 6% from the date of filing of the claim petition as has been awarded by the Claims Tribunal. The order of the apportionment in the same fraction, as directed by the tribunal, shall be applied to this amount. No costs. **Sd/-** **L.C. Bhadoo** **Judge**	**Sd/-** **Sunil Kumar Sinha** **Judge**

/Rao/

GRPRJ — FS/246— 2/2007 — 50,000.